

5/9/16

5:25 p.m.

Chapter No. 462
16/SS02/R766SG
LR 1 CA/16

SENATE BILL NO. 2699

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2699

AN ACT TO AMEND SECTION 49-27-71, MISSISSIPPI CODE OF 1972, TO REVISE PROCEDURES FOR THE REMOVAL OF DERELICT VESSELS; TO PROVIDE THAT CERTAIN PROCEEDS ESCHEAT TO THE STATE; TO REQUIRE INQUIRY WITH THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS BEFORE DISPOSAL; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-27-71, Mississippi Code of 1972, is amended as follows:

49-27-71. (1) Definitions. As used in the section, unless the context clearly indicates otherwise:

(a) * * * "Derelict" means (i) grounded; (ii) allowed to remain in an unseaworthy or dilapidated condition; or (iii) submerged or in immediate danger of sinking. A ship submerged for one hundred (100) years or more is not derelict.

(b) * * * "Vessel" means vessels and, for purposes of this section, also includes floatable buildings and structures, whether or not they are used for navigation.

(2) * * * Jurisdiction. In the waters of Harrison, Hancock and Jackson Counties, a person must not leave derelict any vessel

on the coastal wetlands, marine waters, or on public or privately owned lands without the owner's permission.

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(3) * * * Standing. Only a party with standing may initiate the derelict vessel procedures in this section. For purpose of this section, the following parties have standing:

(a) The owner of the property where the vessel came to rest or to which the vessel was made fast;

(b) Any harbormaster, police department, municipality or agent of the state that agrees to accept or process a derelict vessel; or

(c) Any professional marine salvager when the salvager is engaged by a person with standing.

(4) * * * Notice. Any party with standing may initiate the notice process by filing an application to remove the derelict vessel with the department. Upon receipt of the application, and review, the department may initiate the following notice process:

(a) A department officer will post notice on the vessel in a prominent location so as to be visible to an approaching person, requiring the vessel to be removed within seven (7) days of the notice.

(b) The notice must include a space for the owner of the vessel to respond.

(c) If the owner responds with a signature in the space or written response to the department requesting an extension of

time, then the owner will have an additional five (5) days to remove the vessel.

(d) The department must attempt to contact the owner of the vessel and any lien holders of record by other available means. The owner is presumed to be the person to whom the vessel is registered.

(5) * * * Derelict vessel removal. (a) After the initial notice period described in subsection (4) has lapsed, the derelict vessel may be removed by the department or the party with standing.

(b) Prior to disposition of the vessel, the department or the party with standing must inquire of the Department of Wildlife, Fisheries and Parks as to the status of the vessel in regard to the Mississippi Boating Law of 1960, Section 59-21-1 et seq. The inquiry must provide the description of the vessel, including the vessel registration number. Upon request of the Department of Wildlife, Fisheries and Parks, satisfactory evidence must be furnished as to dereliction in compliance with this section. The Department of Wildlife, Fisheries and Parks will advise the inquirer of proper registration procedures, where indicated, depending on the method of disposition of the vessel.

(c) On registration, title to the derelict vessel vests with the person or governmental agency that registered it. No liabilities incurred by the vessel or the vessel owner transfer along with the title. Any vessel transferred under this

subsection may be disposed of without additional notice to the original owner of the vessel. Any value retrieved from the sale or disposal of the vessel offsets the costs of removal and storage attributed to the original owner.

(d) Any person who acts in good faith and without malicious intent in the processing, storage or movement of any derelict vessel pursuant to this section is immune from civil liability for damage to the vessel.

(6) * * * **Emergency removal.** Any derelict vessel within any designated navigation channel or within one hundred (100) yards of the boundaries of any state, county or municipal port may be declared a hazard to navigation and subject to immediate removal and disposal by the department. Any derelict vessel that is leaking any hazardous substances, chemicals or fuels may be declared an environmental hazard and subject to immediate removal and disposal by the department. The owners of a vessel removed in accordance with this subsection are liable for the costs associated with the salvage and disposal of the vessel and any damages to the flora and fauna within the affected area. The department is not liable for damages resulting from relocation or removal unless the damage results from gross negligence or willful misconduct.

(7) * * * **Cost recovery.** (a) Any party with standing may seek full cost recovery from the owner of the derelict vessel for any expense incurred as a result of, or incidental to, removing

the vessel. The owner of the vessel is liable for the costs of removal, storage and restoration of affected lands. If ownership of the vessel transfers under subsection (5)(c), then the original owner is liable for double the costs of removal, storage, restoration of affected lands, attorneys' fees, and all costs of court.

(b) The owner of the vessel is also liable for a fine of Five Hundred Dollars (\$500.00) per day. However, no fine will be charged if the vessel is reclaimed by the owner and all expenses paid before the title transfers under this section.

(8) * * * Court process. (a) The chancery court of the county in which the vessel is located has jurisdiction over all matters concerning derelict vessels under this section, including injunctions and demands for damages.

(b) The chancery court may, in its discretion, order damages up to Five Hundred Dollars (\$500.00) per day for every day the vessel was left abandoned or derelict, beginning on the day of the first posting of notice. If the vessel was removed prior to the title transferring under subsection (5), then no such damages will be assessed. The vessel owner is liable for reasonable attorneys' fees and all costs of court.

(c) If a party with standing desires to require the owner to remove the vessel, then he may apply to the chancery court for a writ of mandatory injunction ordering the owner to remove the vessel. The chancery court must allow a reasonable

time for removal and restoration of the affected lands. The chancery court may order further damages not to exceed Five Hundred Dollars (\$500.00) per day for each day that the violation exists beyond the date set by the court in an injunction for the removal of the vessel and restoration of the affected lands.

(d) Any court-ordered reimbursed costs or damages in excess of the actual costs of removal and restoration must be deposited in a special fund in the State Treasury known as the "Derelict Vessel Fund" administered by the department. Any funds deposited in the fund must be used to cover the administrative costs and removal costs incurred by the department for the removal of vessels. Any remaining funds must be used to cover the costs of removing additional derelict vessels.

(9) Department authorities. (a) The department is authorized to enter into contracts with individuals, firms and corporations for the removal of vessels. The salvage value, if any, of the vessel may be used to offset the costs of the removal of the vessel and the restoration of the affected area. The department may enter into noncompetitive contracts or agreements with any state or federal entity for the removal of vessels.

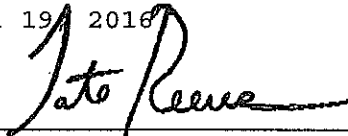
(b) The Commission on Marine Resources shall adopt rules and regulations necessary and appropriate to carry out this section. The commission may also enter into interstate or intrastate efforts toward this end, and may seek and utilize aid from all federal, state, and local sources in this endeavor.

(c) The State of Mississippi, the Commission on Marine Resources, the department, and their employees and representatives shall not be liable for any damages resulting from the removal, sale or disposal of any vessel declared derelict or hazardous under this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2016.

PASSED BY THE SENATE

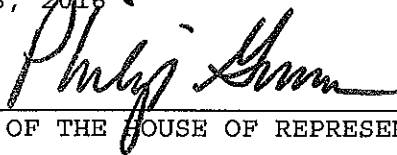
April 19, 2016



PRESIDENT OF THE SENATE

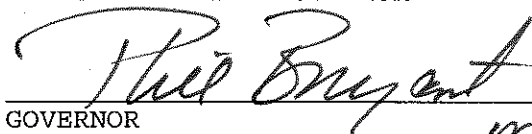
PASSED BY THE HOUSE OF REPRESENTATIVES

April 18, 2016



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

May 9, 2016
5:25pm